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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/667,945	09/22/2000	Motoichi Tamura	39303.20200.00	9628

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EXAMINER

OPSASNICK, MICHAEL N

ART UNIT	PAPER NUMBER
2655	

DATE MAILED: 03/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/667,945

Applicant(s)

TAMURA, MOTOICHI

Examiner

Michael N. Opsasnick

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mohrbacher (5602356) in view of Goldmark (395466).

As per claims 1,9-18, Mohrbacher (5602356) teaches a waveform producing method (as music synthesizer – col. 5 lines 7-26), apparatus, and machine readable storage medium comprising the steps of:

“receiving style of rendition information.....used in a musical performance....produced” as recording a rendition of a piece (col. 1 lines 30-45, col. 2 line 48 – col. 3 line 10) for future recall in reproducing a note, or series of notes of the rendition (col. 42 lines 32-65 + col. 1 lines 30-45 refer to a studio musician’s rendition, which is a style of rendition);

“generating a packet stream.....the packet stream including packets of information for producing and/or controlling a waveform” as generating notes based upon the recorded rendition (col. 42 lines 50-65) wherein the music generated is sampled and stored (col. 47 lines

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22-35) in the form of packetized information (referring back to the synthesizer production technique, col. 34 lines 18-38; col. 39 lines 9-23);

“producing a waveform.....step of generating” as synthesized music output (Fig. 3, subblock 114).

As per claims 1,9-18, Mohrbacher (5602356) does not explicitly teach information identifying a rendition style, however, Goldmark (395466) teaches an ensemble track for identifying different rendition styles located in storage (Goldmark (395466), col. 2 lines 49-58). Therefore, it would have been obvious to one of ordinary skill in the art of tracking musical performances to modify the teachings of Mohrbacher (5602356) with rendition style tracking identification because it would advantageously allow for selection and combination of different rendition styles (Goldmark (395466), col. 2 lines 54-59).

As per claims 2,12-15, Mohrbacher (5602356) teaches time-based aligned packets (col. 39 lines 15-22).

As per claims 3,12-15 Mohrbacher (5602356) teaches time-based aligned packets with time adjustment (col. 39, lines 38-54, more notably the resync process).

As per claim 4, Mohrbacher (5602356) teaches both forward and backward time alignment (col. 39 line 55 – col. 40 line 7).

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As per claim 5, Mohrbacher (5602356) teaches random time/tempo adjustment (col. 40 lines 18-40 -- note, the user has the control to change the tempo to anything that is desired).

As per claims 6-8, Mohrbacher (5602356) teaches pitch, amplitude, and shape control of the waveform (col. 46 lines 14-35, col. 47 lines 35-65; col. 48 lines 22-63).

As per claims 12-15, Mohrbacher (5602356) teaches arranging vector data for producing a waveform (as rearranging the sampled and stored data -- col. 47 lines 22-35; wherein the stored music data -- col. 47 lines 45-65 -- is in vector form -- the music data is amplitude, and marked by time value ps\_tn, hence in vector form; wherein the finished data is used to produce the output waveform, or output music (col. 47 lines 29-35; col. 47 lines 20-23).

Claims 10-15 are similar in scope to previous claims and therefore have been rejected in view of Mohrbacher (5602356) under the same rationale as presented and noted above.

### ***Response to Arguments***

3. Applicant's arguments with respect to claims 1-18 have been considered but are moot in view of the new ground(s) of rejection.

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***Conclusion***

**4. Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

**or faxed to:**

(703) 872 9314,

(for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Opsasnick, telephone number (703)305-4089, who is available Tuesday-Thursday, 9am-4pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Doris To, can be reached at (703)305-4827. The facsimile phone number for this group is (703)872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group 2600 receptionist whose telephone number is (703) 305-4750, the 2600 Customer Service telephone number is (703) 306-0377.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

mno

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DAVID L. OMETZ  
PRIMARY EXAMINER